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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Missouri state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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ED 382 535

Antidote: Civic Responsibility

Missouri Law

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Lesson 1

1. Has Aimee violated any state laws? Have her parents?

Aimee has violated no Missouri law as there is no law which makes a minor liable for an unintentionally dangerous act toward another minor.

Aimee and Carrie's parents, however, may be in violation of Missouri law for leaving a three year old in the care of a ten year old, depending on the length of time Aimee cared for Carrie and how frequently this arrangement occurred. According to Mo. Rev. Stat. §568.050 "A person commits the crime of endangering the welfare of a child in the second degree if (1) He with criminal negligence acts in a manner that creates a substantial risk to the life, body, or health of a child less than 17 years old."

2. Does state law allow 17 year old Tyrell to drink a glass of wine with his dinner without his parents' consent?

No. Mo. Rev. Stat. §311.325 prohibits anyone under 21 from purchasing, attempting to purchase or possessing any intoxicating liquor.

3. Is Maria violating any law when she tells her roommates whom to call to buy marijuana?

Mo. Rev. Stat. §195.211 (Supp. 1993) makes it unlawful for any person to deliver a controlled substance. Since Maria provided the essential information to her roommates, she could be delivering them the substance. If this is true, Maria could also be charged with conspiracy in that she, together with at least one other person, in order to promote or facilitate the commission of an offense agreed that they would engage in conduct which constitutes the offense. Mo. Rev. Stat. §564.016 (1979) Maria provided a critical link for her roommates so they could purchase marijuana. Without her assistance they would not have known from whom it could be purchased. Thus, Maria, arguably participated in a conspiracy with them.

4. Have Adam and Alex broken any laws other than those against drinking and fighting?

Yes. Adam and Alex could be charged with an possibly convicted of involuntary manslaughter for recklessly causing the death of another person. Mo. Rev. Stat. §565.024 (1990). Since they were fighting with Joe while they were intoxicated and Joe died they could be guilty of this charge. They could alternatively be charged with a lesser offense such as Assault in the third degree. Mo. Rev. Stat. §565.070 states "1. A person commits the crime of assault in the third degree if (1) He attempts to cause or recklessly causes physical injury to another person; or. . . (3) He purposely places another person

in apprehension of immediate physical injury; or. . . (5) He knowingly causes physical contact with another person knowing the other person will regard the contact as offensive or provocative."

5. Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?

Jose, age 17, is serving as the designated driver and is not drinking according to the facts. He is breaking no Missouri laws.

Carlos, age 22, may legally drink alcohol in Missouri. He is, however, in violation of Missouri law, if he in any way assisted TJ, age 17, attain alcohol. Mo. Rev. Stat. §311.310 prohibits anyone except a parent or legal guardian from procuring for, selling, giving away or otherwise supplying a person under 21 with intoxicating liquor. If Carlos provided beer to TJ he is violating Mo. Rev. Stat. §312.400 (1991).

TJ is in violation of Mo. Rev. Stat. §311.325. See question 2 above.

6. Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?

Dr. Melrose is violating not only state law, but federal law too. Under 21 U.S.C.A. § 829, a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional conduct. U.S. v. Varma, 691 F.2d 460 (1982), U.S. v. Jamieson, 605 F. Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide him with a bona fide reason for needing the painkillers, may also be breaking the law. 21 U.S.C.A. § 843 prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

Mo. Rev. Stat. §195.070 allows physicians to prescribe controlled substances in good faith and in the course of professional practice only. Thus, Dr. Melrose's dispensing of controlled substance prescriptions without an examination is in violation of this section. He might also be violating Mo. Rev. Stat. §195.170(5) which states that no person shall make or utter any false or forged prescription or false or forged written order. If Dr. Melrose issues a prescription in bad faith, without a valid medical reason arguably he is issuing a false prescription because it is not for treatment purposes.

7. Is Danielle violating any law by taking only one or two pills from someone else's prescription?

Danielle is violating several state and federal laws. Since she is in effect dispensing prescription drugs to herself, she is violating 21 U.S.C.A. § 829, which prohibits dispensing any controlled substance which is a prescription drug without the written prescription of a practitioner. She is also violating 21 U.S.C.A. § 843, which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge and 21 U.S.C.A. § 844 which prohibits simple possession of a controlled substance unless such a substance was obtained by a prescription. The seriousness of her crime under federal drug control laws will depend on the type of drug which she is taking and how the drugs are used.

There are several Missouri laws Danielle has probably broken. Mo. Rev. Stat. §195.204 (Supp. 1993) prohibits a person from obtaining or attempting to obtain a controlled substance by fraud, deceit, misrepresentation or subterfuge. Since Danielle obtained the pills by taking them from another's prescription she is in violation of the law. Her possession of the pills is also unlawful according to Mo. Rev. Stat. §195.202(1) (1991). Finally she could be charged with and convicted of theft under Mo. Rev. Stat. §570.030 which states that a person commits the crime of stealing if she "appropriates property . . . of another with the purpose to deprive him thereof, either without his consent or by means of deceit or coercion. Subsection (k) specifically discusses stealing narcotic drugs.

8. **Is Renee breaking any law even though she is not selling drugs herself?**

Even thought she is not selling drugs directly, Renee is violating several state and federal laws. She is violating 21 U.S.C.A. § 841 prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense drugs and 21 U.S.C.A. § 844 prohibiting simple possession of a controlled substance.

Renee could receive an increased sentence in accordance with the federal sentencing guidelines as a result of her using children in her scheme. Under 21 U.S.C.A. § 859, the distribution of a controlled substance to a person under 21 year of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860, which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 also provides for increased sentences in cases of abuse of one's position of trust, as in a drug trafficking defendant involving her daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

Renee is in violation of Missouri law. Mo. Rev. Stat.

§195.213 makes it unlawful for a person to knowingly permit a minor to purchase or transport illegally obtained controlled substances. She is also violating Mo. Rev. Stat. §568.070 which prohibits an adult from knowingly permitting a child to enter or remain in a place where illegal activity in controlled substances is maintained or conducted. Renee is not only allowing Mary to remain in this area, she is placing her there. Finally, Mo. Rev. Stat. §195.202 (Supp. 1993) makes it illegal for any person to possess or have under his control a controlled substance.

9. Did Jim violate any law other than those regarding controlled substances?

Their heroin use is a felony under federal drug-control statutes. 21 U.S.C.A. § 841 prohibits possession of a controlled substance with the intent to manufacture, distribute or dispense such substance. 21 U.S.C.A. § 844 prohibits simple possession of a controlled substance.

Missouri law makes it unlawful for an HIV infected person to "(2) Deliberately create a grave and unjustifiable risk of infecting another with HIV through sexual or other contact when the individual knows that he is creating that risk." Mo. Rev. Code §191.677(1990). Thus, if Jim knew he was HIV infected and knowingly shared a needle with Andre he violated this law.

10. Has the bartender or owner of Bulldog's Bar & Grill violated any law?

A licensee (Bulldog's owner) or his employee who gives, sells, vends or otherwise supplies intoxicating liquor to any person intoxicated or who appears to be in a state of intoxication or to a habitual drunkard is guilty of a misdemeanor. Miss. Rev. Stat. §311.310 (1991). Additionally, a cause of action can be brought by or on behalf of any person who suffered personal injury or death against any person licensed to sell intoxicating liquor by the drink for consumption on the premises who violated the above law if the sale of such intoxicating liquor was the proximate cause of the personal injury or death. Miss. Rev. Stat. §537.053 (1991).

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990 A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE[5]
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment for at least 20 years, and • fine not to exceed $50,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for at least 20 years, and • fine not to exceed $50,000
First Offense: Codeine - Possession - 200 mg	• imprisonment not to exceed 10 years, and • fine not to exceed $5000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for 10 to 20 years, and • fine not to exceed $15,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment not to exceed 10 years, and • fine not to exceed $5,000

Cite: R.S. Mo. §195.223

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

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[5] All fines may be increased if the court fines that the offender gained money or property from the crime. The fine may then be increased to two times the amount gained.

1. **What does DWI stand for?**

Driving while intoxicated. Under §577.010 it is illegal to drive while intoxicated. Under §577.012 it is illegal to drive with a BAC of 0.10 or more.

2. **What does DUI stand for?**

Driving under the influence. Section 577.010.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

Under Missouri law DWI is a more serious offense.

4. **What are the penalties for being convicted of DWI? DUI?**

CHARGE	CONVICTION	CLASSIFICATION	PUNISHMENT
DWI	first	Class B Misdemeanor	• imprisonment for up to 6 months, and/or • fine up to $500
	second	Class A Misdemeanor	• imprisonment for up to 1 year, and/or • fine up to $1000
	third and subsequent	Class D Felony	• imprisonment for up to 5 years, and /or • fine up to $5000
DUI	first		• fine not less than $50, and/or • imprisonment up to 30 days
	second (within 3 years)		• imprisonment for up to 7 days to 6 months
	third & subsequent (within 3 years)		• imprisonment for 45 days to 1 year

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §577.020 any person who drives in Missouri consents to a breath test. Under §577.041 a refusal to a take test will result in suspension of the individual's license for 1 year.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

A person's BAC must be 0.10 to be legally intoxicated in Missouri.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. Missouri law does not provide a lower BAC for persons under 21.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

Missouri has no open container law. However, § 312..400 makes it illegal sell beer to minors under 21.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only

IL: minors <17 cannot drive between 11pm-6am Mon-Thur and

12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.